



DEPARTMENT OF VETERANS AFFAIRS
OFFICE OF RESOLUTION MANAGEMENT
William S. Moorhead Federal Building
1000 Liberty Avenue, Suite 1801
Pittsburgh, PA 15222

Written Affidavit of **Phil Johnson** in the Matter of the EEO Complaint of Discrimination
of discrimination filed by **Tatyana Dreyaleva**

Tatyana Dreyaleva
10660 Hidden Mesa Pl.
Monterey, CA 93940

Complainant

v.

David Shulkin, Secretary
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Respondent

Case No: 200P-0501-2017103883

Facility: New Mexico VA Healthcare Center
1501 San Pedro Drive, S.E.
Albuquerque, NM 87108

The accepted claim(s) under investigation are:

- A. Whether Complainant was discriminated against based on age, sex (female) and disability, when from May 18, 2017, complainant was terminated during her probationary period.
- B. Whether complainant was discriminated against based on age, sex (female) and disability, when on June 30, 2017, complainant was terminated during her probationary period.

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Exhibit B

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A. Whether Complainant was discriminated against based on age, sex (female) and disability, when from May 18, 2017, complainant was terminated during her probationary period.

B. Whether complainant was discriminated against based on age, sex (female) and disability, when on June 30, 2017, complainant was terminated during her probationary period.

1. Please identify the individual responsible for terminating the complainant?
Complainant's conduct resulted in termination

2. The complainant claims that in May 2017 she told Ms. Dunkelberger that she wanted to have children but was running out of time because she was 50 years old. She told Ms. Dunkelberger that she planned to go to Russia for an IVF attempt. Ms. Dunkelberger's face expressed she was very much displeased and Ms. Dunkelberger told her that according to FMLA she would have to work for the VAMC for 12 months to be eligible for leave without pay. She told Ms. Dunkelberger that she could not wait for 12 months because it was her turn for a free IVF attempt in Russia. Ms. Dunkelberger requested a copy of her medical records confirming her intention to perform an IVF. She told Ms. Dunkelberger that she would request the medical documents from her Russian OB/GYN. Ms. Dunkelberger stated she needed the documents prior to her departure. On May 17, 2017 Ms. Dunkelberger was out of the office. She told Assistant Manager, Phil Johnson, the same thing she told Ms. Dunkelberger. She told him on May 17, 2017 she received the Russian medical documents which were written in Russian. She only had 3 hormonal pills left and she would start bleeding if she did not go to Russia. There was no time to translate the medical documents. Mr. Johnson told her that if she needed to go she should go. She told Mr. Johnson that she would provide him with a translated document as soon as she got to Russia and Mr. Johnson agreed. She told Mr. Johnson that a Russian co-worker could translate the document until she could get an official translation. She filled out a Request for Leave Without Pay form for the period from May 18, 2017 through July 7, 2017 and slipped it under Ms. Dunkelberger's door, since she was not in the office. On May 30, 2017 she emailed, from Russia, her Russian OB/GYN medical documentation of her need for IVF in the English language. She received no response. When she left she did not know if her Request for Leave Without Pay would be approved or denied by Ms. Dunkelberger. On July 3, 2017 she received a termination letter. This was the first time she found her Leave Without Pay Request had been denied. Ms. Dunkelberger mailed the termination letter to her home in NM instead of emailing it to her in Russia. The justification provided in the termination letter was that she was on probationary period and attendance issues. What was your role and the circumstances surrounding this event? *The complainant came into the office, after business hours, on May 17, 2017 stating s/he had one pill left and was flying to Russia the next day to have Invitro Fertilization done. The complainant also stated his/her age to be 50 and that s/he had always wanted to have children and "this may be my last chance". I handed the complainant the OPM71 paper*

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work and stated that this must be filled out and supporting documentation in English from the doctor must also be supplied. At this time I stated to the complainant that I could not approve Leave Without Pay but I would turn in the documentation and if this was that important then s/he should go.

3. What was your justification for your actions when the complainant when these events occurred and the complainant was terminated? *Do not understand the question*
4. Did you discuss this with the complainant? *Cannot answer the question*
 1. If yes, when? *N/A*
 2. What was discussed? *N/A*
 3. What was the outcome of the discussion? *N/A*
 4. Did you discuss this with Ms. Dunkelberger? *N/A*
 5. If yes, when was it discussed? *N/A*
 6. What was discussed? *N/A*
 7. Did you consult with H.R. or any other management officials regarding the termination? *No*
 8. If so, who did you discuss it with? *N/A*

Commented [JPL1]:

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31. Is there anything else pertinent to these specific events that we have not discussed? No

PLEASE NOTE THAT ORM RESERVES THE RIGHT TO SUPPLEMENT OR ASK ADDITIONAL QUESTIONS AS THE INVESTIGATION REQUIRES.

The above information has been furnished without a pledge of confidence and I understand that it may be shown to any interested party[ies] with a need to know for this complaint. This includes but is not limited to VA, EEOC, contracting officials with a need to know during the course and scope of the informal and formal EEO process including administrative procedures and litigation as applicable and mandated by law.

This statement is made under penalty of perjury on this 13 day of March, 2018.

Phil Johnson RN, 5DT ANM
Phil Johnson

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